

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Michael J. & Annetta S. Zdrodowski)
Dist. 4, Map 128O, Group A, Control Map 128O,) Cumberland County
Parcel 14.00, S.I. 000)
Residential Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$25,000	\$217,600	\$242,600	\$60,650

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 4, 2007 in Crossville, Tennessee. In attendance at the hearing were Michael Zdrodowski, the appellant, and Cumberland County Property Assessor's representative Mary Cox.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence constructed in 2005 located at 243 Ottoma Drive in Crossville, Tennessee.

The taxpayer contended that subject property should be valued at a maximum of \$200,000. In support of this position, the taxpayer argued that the total cost to acquire subject land and construct subject residence was only \$182,000. The taxpayer asserted that even if current construction costs or his insurer's estimated replacement cost are used, it would still cost less than \$200,000 to duplicate subject property.

The taxpayer also introduced into evidence numerous sales and listings which he maintained support a maximum value of \$200,000. Additionally, the taxpayer's proof included a letter from a local realtor estimating subject property would command \$195,000 - \$200,000 if offered for sale.

The assessor contended that subject property should remain valued at \$242,600. In support of this position, three comparable sales were introduced into evidence.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$200,000 as contended by the taxpayer.

The administrative judge normally gives the sales comparison approach greatest weight when valuing a residence. In this case, however, the administrative judge finds that the parties market data cannot provide a basis of valuation. The administrative judge finds that the taxpayers' sales and listings occurred after the relevant assessment date of January 1, 2007 and are therefore irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. The administrative judge finds that the assessor's sales lack probative value because they were not adjusted despite obvious differences between the subject and comparables. For example, sale #1 has 2,366 square feet of base living area versus the subject's 1,974 square feet. The administrative judge finds that the Assessment Appeals Commission explained the need to adjust comparable sales in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

The administrative judge finds that the cost approach has significant probative value in this particular appeal because subject dwelling was constructed approximately 18 months prior to the relevant assessment date of January 1, 2007. The administrative judge finds the taxpayer's proof established that it cost \$151,500 to have subject residence constructed in 2005. According to the builder, it would cost \$165,000 to construct the same home today.

The administrative judge finds the builder's quote of \$165,000 fairly consistent with the \$174,000 estimate used by the taxpayer's insurer. The administrative judge finds that the assessor's significantly higher estimated reproduction cost of \$219,070 appears excessive due to the utilization of all "above average" calls.

The administrative judge finds that the assessor estimated the market value of subject land at \$25,000 as of January 1, 2007. The administrative judge finds that the taxpayer purchased subject land in two separate transactions in 2004 and 2005 for a total of \$24,500.

Presumably, the combining of the two separately purchased parcels accounts for the seeming lack of appreciation.

In any event, the administrative judge finds that the cost approach supports adoption of a maximum value of \$200,000 as contended by the taxpayer.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$25,000	\$175,000	\$200,000	\$50,000

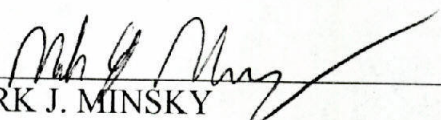
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of September, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Michael J. & Annetta S. Zdrodowski
Ralph Barnwell, Assessor of Property